REMARKS

The Office Communication mailed 10 February 2006 stated that the reply of 5 December 2005 was not fully responsive to the prior Office Action because the remarks filed with the amendment were completely silent about the objections made to Claim 22. The applicant respectfully disagrees.

The applicant respectfully directs the attention of the Examiner to the second to the last paragraph on page 5 of the 5 December 2005 response. That paragraph clearly responded to the rejection of both Claims 16 and 22 in sufficient detail to respond to the rejection of Claims 16 and 22. As the response is believed to be sufficient, and the response to Claim 16 was not faulted, the remainder of this response is the same as the response filed 5 December 2005.

This application was originally filed on 15 September 2003 with four claims, one of which was written in independent form. No claims have been allowed. Claim 1 was canceled, and Claims 16-27 added by amendment on 22 December 2004.

Please charge any required fees, including extension of time fees, to the deposit account of Texas Instruments Incorporated, Deposit Account No. 20-0668.

Claim 2 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,155,596 to Kurtz *et al.* ("Kurtz"). The applicant respectfully disagrees and submits the Examiner has failed to meet the burden of proof required to establish a *prima facie* case of anticipation.

"A person shall be entitled to a patent unless," creates an initial presumption of patentability in favor of the applicant. 35 U.S.C. § 102. "We think the precise language of 35 U.S.C. § 102 that, "a person shall be entitled to a patent unless," concerning novelty and unobviousness, clearly places a burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103, see Graham and Adams." *In re Warner*, 379 F.2d 1011, 1016 (C.C.P.A. 1967) (referencing *Graham v. John Deere Co.*, 383 U.S. 1 (1966) and *United States v. Adams*, 383 U.S. 39 (1966)). "As adapted to *ex parte* procedure, *Graham* is interpreted as continuing to place the 'burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103'." *In re Piasecki*, 745 F.2d 1468 (Fed. Cir. 1984) (citing *In re*

Warner, 379 F.2d at 1016).

"The *prima facie* case is a procedural tool which, as used in patent examination (as by courts in general), means not only that the evidence of the prior art would reasonably allow the conclusion the examiner seeks, but also that the prior art compels such a conclusion if the applicant produces no evidence or argument to rebut it." *In re Spada*, 911 F.2d 705, 708 n.3 (Fed. Cir. 1990).

Section 2131 of the Manual of Patent Examiner's Procedure provides:

"'A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987). . . . 'The identical invention must be shown in as complete detail as contained in the . . . claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as in the claim under review . . . . *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

Claim 2 recites, an "asymmetric aperture stop forming a predominately circular aperture." The Examiner stated, "Kurtz . . . discloses: . . . said asymmetric aperture stop forming a predominately circular aperture (see shape of element 39, Figure 1)."

The applicant respectfully submits element 37 of Kurtz is a circular aperture wheel. Element 39, however, is the aperture of Kurtz. Aperture 39 of Kurtz does not appear to be predominately circular, but rather appears to be a tapered curved slot.

Contrary to the Examiner's assertion, "a predominately circular aperture" is not disclosed by Kurtz. The Examiner's rejection, therefore, is unsupported by the prior art and should be withdrawn.

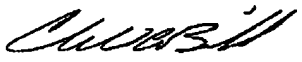
Claims 3 and 4 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kurtz. The applicant respectfully disagrees. Claims 3 and 4 depend from Claim 2 and should be deemed allowable as depending from an allowable claim and on their own merits. For the reasons stated above with respect to Claim 2, Kurtz does not show, teach, or suggest the limitations of the independent claim, much less the limitations of the independent claim in combination with the additional limitations of the dependent claims.

Claims 16 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kurtz. The applicant respectfully submits Claims 16 and 22 have been amended to recite, "asymmetric aperture stop forming a predominately circular aperture." Claims 16 and 22, therefore, should be deemed allowable for the reasons stated above with respect to Claim 2.

Claims 17-21 and 23-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kurtz. The applicant respectfully disagrees. Claims 17-21 depend from Claim 16 and Claims 23-27 depend from Claim 22. Claims 17-21 and 23-27 should be deemed allowable as depending from an allowable claim and on their own merits. For the reasons stated above with respect to Claim 16, Kurtz does not show, teach, or suggest the limitations of the independent claim, much less the limitations of the independent claim in combination with the additional limitations of the dependent claims.

In view of the amendments and the remarks presented herewith, it is believed that the claims currently in the application accord with the requirements of 35 U.S.C. § 112 and are allowable over the prior art of record. Therefore, it is urged that the pending claims are in condition for allowance. Reconsideration of the present application is respectfully requested.

Respectfully submitted,



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